act of 1898 an appeal could be taken only by the trustee or by a creditor in the name of the trustee and under permission from the court. The present case takes the contrary view, following *in re Roche*, 101 Fed. 956.

COMMON CARRIERS—DEFECTIVE FREIGHT ELEVATOR—LANDLORD'S LIABILITY.—SPRINGER v. FORD, 59 N. E. Rep. 953 (Ill.).—The owner of a building in which a freight elevator is operated, who permits an employee of his tenant to ride thereon in the discharge of his duties, occupies the relation of a common carrier of passengers for hire towards such employees.

The conflict of the decisions on the *status* of passenger and freight elevators, has been decidedly emphasized during the last few months by two notable decisions taking opposite views on the subject. Upon the heels of the case of *Griffen* v. *Manice*, decided by the New York Court of Appeals and commented upon in the current volume of this Journal, page 287, comes this case which holds the owner of a building in which a freight elevator is operated, liable as a common carrier for hire; the hire being the rent received from the tenant. The New York case, on the contrary, considers such occupation as inadequate to create the relation of carrier and passengers, and makes the passenger, when using the elevator, merely accept an implied invitation to make use of it, when doing business on the premises. Both cases are decided on grounds of what the courts consider public policy, but the weight of prior decisions seems to be decidedly in favor of the Illinois decision. *Deposit Co.* v. *Soblitt*, 172 Ill. 222; *Treadwell* v. *Whittier*, 80 Cal. 574.

DISTRIBUTION OF POWERS OF STATE—PROBATE COURT—JURISDICTION—CONSTITUTIONAL LAW—CITY OF JANESVILLE v. TELEGRAPH CO., 59 N. E. 781 (Ohio.).—A law conferring power on the Probate Court to determine the mode of construction of telegraph line along city streets, in case of disagreement between the city and company, is not invalid as vesting legislative powers in a judicial body. Shanck, C. J., and Marshall, J., dissenting.

In a carefully considered opinion the court here squarely reverses its former position, noted 10 YALE LAW JOURNAL 259. The defendant relied upon *Appeal of Norwalk Ry. Co.*, 69 Conn. 576, in which a similar statute was declared unconstitutional, but the court, after an exhaustive review, declines to accept it as binding, following the principle laid down in *Cooper's Case*, 22 N. Y. 84, that when any power is conferred upon a court of justice to be exercised by it as a court, the action of such court is to be regarded as judicial irrespective of the original nature of the power.

ELECTRICITY—NEGLIGENCE—TELEPHONES—DEATH BY LIGHTNING—SAFETY APPLIANCES—DANGEROUS POSITION.—GRIFFITH v. NEW ENGLAND TELEPHONE AND TELEGRAPH CO., 380 Atl. 643 (Vt.).—A., while sitting in his library near a telephone which he had rented of defendant, was killed by lightning which entered over defendant's wires. *Held*, that the question as to whether defendant used proper appliance to avert the danger, and the question of A.'s contributory negligence in not knowing that defendant had not adopted proper appliances to avert such a danger and in sitting near the telephone when a storm was approaching, were for the jury.

It is the duty of electric companies to guard against injuries to person and property by reason of electricity which may be conducted over their lines. *Brown* v. *Illuminating Co.*, 45 Atl. 182; *McKay* v. *Telephone Co.*, 111 Ala. 337; 10 *Am. and Eng. Enc. Law* (second edition) 872. The court intimated that it is the duty of a telephone company to have a lightning arrester or a ground connection on the wire outside each subscriber's house or place of business.